

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 2077) to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

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The Senate amendment struck out lines 1 through 12 of the House amendment and inserted new matter consisting of titles I and II.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute. The differences between the House and Senate amendments and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

House Amendment

The House amendment amends section 5948(d) of title 5, United States Code, and section 3 of the Federal Physicians Comparability Allowance Act of 1978 to extend the 1978 Act for two more years. The current authority to enter into contracts with physicians expired September 30, 1983. Also under current law, contracts entered into prior to September 30, 1983, cannot extend beyond September 30, 1985. The House amendment extends the authority to enter into contracts until September 30, 1985, and permits those contracts to extend until September 30, 1987.

Senate Amendment

The Senate amendment differs from the House amendment in three respects. First, the Senate amendment extends the Federal Physicians Comparability Allowance Act of 1978 for four years instead of two. Second, it relieves 13 Federal physicians of the obligation to repay certain compensation received in fiscal year 1982 which was in excess of the statutory limit on aggregate compensation set forth in section 5383(b) of title 5, United States Code. The statutory limit was exceeded when these individuals mistakenly were paid maximum physicians comparability allowances and

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Senior Executive Service performance awards. The amount forgiven range from \$1,455.46 to \$5,988.66. Finally, the Senate amendment contains provisions addressing the problem of double coverage of Federal employees hired after December 31, 1983, (newly hired employees) under social security and other Federal staff retirement systems including, but not limited to, the Civil Service Retirement and Disability System, the Foreign Service Retirement and Disability System, and the Central Intelligence Agency Retirement and Disability System (covered retirement systems).

The retirement provisions of the Senate amendment essentially provide that Federal employees hired after December 31, 1983, (newly hired employees), would be fully covered under both social security and the applicable covered retirement system during a two-year transition period ending January 1, 1986. During this period employees would pay the full social security tax and contribute 1.3 percent of pay to the applicable covered retirement system. Employing agencies would continue to make their full retirement contributions (in most cases 7 percent). The difference between the employee's normal contribution (in most cases 7 percent), and the amount actually contributed (1.3 percent) would be made up by the Treasury through amortized payments over 30 years.

If during the two-year transition period a newly hired employee become eligible for benefits under a covered retirement system, no retirement credit would be allowed for service during the transition period unless a deposit equal to the difference between the 1.3 percent actual contribution and the normal employee contribution rate is made. In the case of disability or survivor benefits, the deposit requirement is waived. In addition, the retirement benefits for an employee or survivor would be reduced by an amount equal to that portion of any social security benefit that is attributable to service during the transition period. Members, judges, and current employees who will be covered by social security are treated the same as newly hired employees except their service is not transferred to the new system.

At the end of the transition period, newly hired employees would be transferred to a new yet-to-be-developed supplemental retirement plan and would receive credit under that plan for their service during the transition period.

Conference Agreement

Extension of the Federal Physicians Comparability Allowance Act of 1978.—The conference agreement follows the Senate amendment and extends the 1978 Act for four years beginning October 1, 1983.

There have been persistent reports during the last two years from agencies experiencing ongoing recruitment and retention problems with respect to Federal physician positions. Nevertheless, these agencies have chosen not to implement the Federal Physicians Comparability Allowance Act. The conferees note the intent of Congress is for this Act to be used whenever measurable recruitment and retention problems exist. In that regard, the conferees direct the Office of Personnel Management and those agencies employing civil service physicians to examine more closely the recruitment and retention problems that exist with respect to these physi-

cians and to make more effective use of the allowances authorized by this Act where identifiable problems exist.

Relief for certain Federal physicians.—The conference agreement follows the Senate amendment but extends relief to any other Federal physician similarly situated. It provides that any individual whose aggregate pay for fiscal year 1982 exceeded the limitation set forth in section 5383(b) of title 5, United States Code, is relieved of all liability to the United States for any amounts paid to that individual in excess of the limitation if, and to the extent that, the liability takes into account any physicians comparability allowance.

Double coverage of Federal employees.—The conference agreement follows the Senate amendment with several important modifications.

With respect to the applicability of social security offsets and the necessity for deposits for service during the transition period, the conference agreement provides the following:

I. Newly hired employees—

A. Any retirement benefit commencing during the transition period (1984 and 1985) will be offset by the amount of any social security benefit attributable to service during that period. No deposit is required.

B. If by the end of the transition period no new supplemental retirement plan has been established, the full contribution rate again will be applicable, and retirement credit (including credit for disability retirement) for service during the transition period will be allowed only if the employee deposits the difference between the normal contribution rate (in most cases 7 percent) and the rate actually paid during that period (1.3 percent). In the case of an employee who dies without making the necessary deposit, a survivor will be permitted to make the deposit. There is no social security offset.

II. Current employees who will be subject to social security—

A. With respect to a retirement benefit commencing during the transition period (1984 and 1985), retirement credit for service during that period will be allowed only if the employee deposits the difference between the normal contribution rate (in most cases 7 percent) and the rate actually paid during that period (1.3 percent). An exception is made for disability and survivor benefits. No deposit is necessary in those cases, but the benefit will be offset by the amount of any social security benefit attributable to service during the transition period.

B. If by the end of the transition period no new supplemental plan has been established, or such a plan does not apply to current employees, the full contribution rate again will be applicable, and retirement credit for service during the transition period will be allowed only if the employee deposits the difference between the normal contribution rate (in most cases 7 percent) and the rate actually paid during the period (1.3 percent). In the case of an employee who dies without making the necessary deposit, a survivor would be permitted to make the deposit.

A second important modification permits current employees to make elections concerning coverage. Although the Social Security

Amendments of 1983 (98-21) generally provide that only Federal employees hired after December 31, 1983, will be covered by social security (and therefore face a double coverage situation), certain current officers and employees and current Members and judges will also be brought under social security effective January 1, 1984. Individuals in this affected group who are participants in a covered retirement system will be double covered effective January 1, 1984. The affected group includes the President and Vice President, Members of Congress, individuals in Executive Schedule positions (e.g., cabinet secretaries, deputy and assistant secretaries, heads and top officials of other agencies, boards and commissions and other top officials), noncareer members of the Senior Executive Service and Senior Foreign Service, top officials in the White House and judges.

Unlike newly hired employees who may elect whether or not to accept Government employment and face the uncertainties of a yet-to-be-established supplemental retirement program, the affected group has no election other than to resign (which in many instances would involve resignations from elected offices, lifetime judicial appointments, or presidentially appointed and Senate-confirmed positions). Also, unlike most newly hired employees, many in the affected group have made a substantial investment in, and have earned substantial credits under, their current covered retirement systems. For these individuals, the rules are being changed in the middle of the game. The conferees believe this is unfair, and the conference agreement permits certain elections by individuals in the affected group in order to mitigate the unfairness.

The conference agreement provides that an individual in the affected group who is currently participating in a covered retirement system may elect: (A) to terminate participation in the covered retirement system effective after December 31, 1983, in which case no retirement contributions to such system will be required and the individual will be required to pay only the social security tax; or (B) to remain under the current covered retirement system and make full retirement contributions to such system in addition to the social security tax. Under election (A), the individual will be covered only under social security. Under election (B), the individual participates fully in the current covered retirement system and is also covered by social security. An election must be in writing and be submitted before January 1, 1984. If no election is made the individual will be subject to the other provisions of the conference agreement regarding reduced contributions and a social security offset.

In the case of an individual in the affected group who is not currently participating in a covered retirement system an election is also provided. Such an individual may elect: (A) to become a participant in the appropriate covered system and be subject to the other provisions of the conference agreement regarding reduced contributions and a social security offset; or (B) to become a participant in the appropriate system and not be subject to the other provisions of the conference agreement regarding reduced contributions and a social security offset. Under election (A), the individual will be treated essentially the same as a newly hired employee and will pay the social security tax and a reduced retirement contribution.